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ABSTRACT

The Declaration of Purpose of this Act states that it is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well being of the nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs. Sections of the Act deal with: appropriations authorized, apportionments to States, nonfood assistance, direct Federal expenditures, payments to States, State disbursement to schools, nutritional and other program requirements, disbursement to schools by the Secretary, special assistance, miscellaneous provisions and definitions, summer food service program for children, commodity distribution program, National Advisory Council, election to receive cash payments, child care food program, nutrition program staff study, appropriations for the Trust Territory of the Pacific Islands, and study of cost accounting requirements. (Author/JM)

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U S DEPARTMENT OF HEALTH,
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ED131174

NATIONAL SCHOOL LUNCH ACT, As Amended
(Asterisks indicate deletion of provisions no longer effective as of 10-7-75)

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An Act

To provide assistance to the States in the establishment, maintenance, operation, and expansion of school lunch programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National School Lunch Act."

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs.

APPROPRIATIONS AUTHORIZED

SEC. 3. For each fiscal year there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as "the Secretary") to carry out the provisions of this Act, other than sections 13, 17 and 19. Appropriations to carry out the provisions of this Act and of the Child Nutrition Act of 1966 for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of such Acts shall remain available for the purposes of the Act for which appropriated until expended.

Sec. 1 of P. L. 87-823
Sec. 1 of P. L. 90-302
Sec 1 (a) of P. L. 91-248
Sec. 7 of P. L. 93-326
Sec. 24 of P. L. 94-105

APPORTIONMENTS TO STATES

SEC. 4. The sums appropriated for any fiscal year pursuant to the authorizations contained in section 3 of this Act, excluding the sum specified in section 5, shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this Act. For each fiscal year the Secretary shall make food assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection 9(a) of this Act) served during such fiscal year to children in schools in such State, which participate in the school lunch program under this Act under agreements with such State educational agency, by a national average payment per lunch for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this Act: *Provided,* That in any fiscal year such national average payment shall not be less than 10 cents per lunch and that the aggregate amount of the food assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section 4.

Sec. 4 (c) of P. L. 92-433
Sec. 2 (a) of P. L. 93-150

NONFOOD ASSISTANCE

SEC. 5. Of the sums appropriated for any fiscal year pursuant to the authorization contained in section 3 of this Act, $10,000,000 shall be available to the Secretary for the purpose of providing, during such fiscal year, nonfood assistance for the school lunch program pursuant to the provisions of this Act. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of $10,000,000, and such apportionment among the States shall be on the basis of the factors, and in accordance with the standards set forth in section 4 with respect to the apportionment for agricultural commodities and other foods.

Sec. 3 (a) of P. L. 87-823

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DIRECT FEDERAL EXPENDITURES

SEC. 6. (a) The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, and for carrying out the provisions of the Child Nutrition Act of 1966, other than section 3 thereof, less

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for his administrative expenses under this Act and under the Child Nutrition Act of 1966;

(2) the amount apportioned by him pursuant to sections 4 and 5 of this Act and the amount appropriated pursuant to sections 11 and 13 of this Act and sections 4, 5, and 7 of the Child Nutrition Act of 1966; and

Sec. 3 of P. L. 91-248

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this Act and the programs under the Child Nutrition Act of 1966, other than section 3, which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966,

shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities. The provisions of law contained in the proviso of the Act of June 28, 1937 (50 Stat. 323), facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 32 of the Act approved August 24, 1935 (49 Stat. 774), as amended, shall, to the extent not inconsistent with the provisions of this Act, also be applicable to expenditures of funds by the Secretary under this Act. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this Act and the Child Nutrition Act of 1966.

Sec. 11 of P. L. 94-105

(b) As of February 15 of each fiscal year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that fiscal year to States for school food service programs under the provisions of this section, section 416 of the Agricultural Act of 1949, and section 32 of the Act of August 24, 1935. If such estimated value is less than 90 per centum of the value of such deliveries initially programmed for that fiscal year, the Secretary shall pay to State educational agencies, by not later than March 15 of that fiscal year, an amount of funds that is equal to the difference between the value of such deliveries initially programmed for such fiscal year and the estimated value as of February 15 of such fiscal year of the commodities and other foods to be delivered in such fiscal year. The share of such funds to be paid to each State educational agency shall bear the same ratio to the total of such payment to all such agencies as the number of meals served under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act of 1966 during the preceding fiscal year bears to the total of all such meals served in all the States during such fiscal year: *Provided*, That in any State in which the Secretary directly administers school food service programs in any of the schools of such State, the Secretary shall withhold from the funds to be paid to any such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of meals served in such schools under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act of 1966 during that fiscal year bears to the total of such meals served in all the schools in such State in such fiscal year. Each State educational agency, and the Secretary in the case of schools in which he directly administers school food service programs, shall promptly and equitably disburse such funds to schools participating in the lunch and breakfast programs under this Act and the Child Nutrition Act of 1966 and such disbursements shall be used by such schools to obtain agricultural commodities and other foods for their food service program. Such food shall be limited to the requirements for lunches and

Sec. 4 of P. L. 94-105

Sec. 5 (a) of P. L. 93-150

breakfasts for children as provided for in the regulations by the Department of Agriculture under title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220.

(c) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to make any payments to States authorized under such subsection. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32.

(d) Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 7 of this Act.

(e) For the fiscal year ending June 30, 1975, and subsequent fiscal years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and that amount shall be adjusted on an annual basis each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program.

Sec. 3 of P. L. 93-326

Sec. 11 of P. L. 94-105

PAYMENTS TO STATES

SEC. 7. Funds apportioned to any State pursuant to section 4 or 5 during any fiscal year shall be available for payment to such State for disbursement by the State educational agency, in accordance with such agreements not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agency, for the purpose of assisting schools of that State during such fiscal year, in supplying (1) agricultural commodities and other foods for consumption by children and (2) nonfood assistance in furtherance of the school lunch program authorized under this Act. Such payments to any State in any fiscal year * * * shall be made upon condition that each dollar thereof will be matched during such year * * * from sources within the State determined by the Secretary to have been expended in connection with the school lunch program under this Act. * * *; and for any fiscal year (after 1955) * * *, such payments shall be made upon condition that each dollar will be so matched by $3. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any fiscal year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of determining whether the matching requirements of this section and section 10, respectively, have been met, the reasonable value of donated services, supplies, facilities, and equipment as certified, respectively, by the State educational agency and in case of schools receiving funds pursuant to section 10, by such schools (but not the cost or value of land, of the acquisition, construction, or alteration of buildings, of commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school lunch program. For the fiscal year beginning * * * July 1, 1972, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local level) shall constitute at least 4 per centum of the matching requirement for the preceding fiscal year; for each of the two succeeding fiscal years, at least 6 per centum of the matching requirement for the preceding fiscal year; for each of the subsequent two fiscal years, at least 8 per centum of the matching requirement for the preceding fiscal year; and for each fiscal year thereafter, at least 10 per centum of the matching requirement for the preceding fiscal year. The State revenues made available pursuant to the preceding sentence shall be disbursed to schools, to the

Sec. 4 of P. L. 91-248

extent the State deems practicable, in such manner that each school receives the same proportionate share of such revenues as it receives of the funds apportioned to the State for the same year under sections 4 and 11 of the National School Lunch Act and sections 4 and 5 of the Child Nutrition Act of 1966. The requirement in this section that each dollar of Federal assistance be matched by $3 from sources within the State (with adjustments for the per capita income of the State) shall not be applicable with respect to the payments made to participating schools under section 4 of this Act for free and reduced price lunches: *Provided,* That the foregoing provision shall not affect the level of State matching required by the sixth sentence of this section. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

Sec. 5 of P. L. 94-105

STATE DISBURSEMENT TO SCHOOLS

SEC. 8. Funds paid to any State during any fiscal year pursuant to section 4 or 5 shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school-lunch program. Such disbursement to any school shall be made only for the purpose of assisting it to finance the cost of obtaining agricultural commodities and other foods for consumption by children in the school lunch program and nonfood assistance in connection with such program. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing or handling thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school-lunch program under this Act during such year by the maximum Federal food-cost contribution rate for the State, for the type of lunch served, as prescribed by the Secretary. In any fiscal year in which the national average payment per lunch determined under section 4 is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount. Lunch assistance disbursements to schools under this section and under section 11 of this Act may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

Sec. 8 of P. L. 92-433

Sec. 2 (b) of P. L. 93-150

Sec. 8 of P. L. 92-433

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 9. (a) Lunches served by the schools participating in the school lunch program under this Act shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research, except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary need of individual students. The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this Act without endangering the nutritional integrity of the lunches served by such schools. Students in senior high schools which participate in the school lunch program under this Act shall not be required to accept offered foods which they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this Act to any such school for such a lunch.

Sec. 2 (b) of P. L. 90-302

Sec. 6(a) of P. L. 94-105

(b)(1) No later than June 1 of each fiscal year, the Secretary shall issue revised income poverty guidelines for use during the subsequent 12-month period from July through June. Such revisions shall be made by multiplying the income poverty guidelines currently in effect by the change in the Consumer Price Index for the 12-month period ending in April of such fiscal

year: *Provided,* That such revision for use from July 1976 through June 1977 shall be made by multiplying the income poverty guideline currently in effect by the change between the average 1974 Consumer Price Index and the Consumer Price Index for April 1976. Any child who is a member of a household which has an annual income not above the applicable family-size income level set forth in the income poverty guidelines prescribed by the Secretary shall be served a free lunch. Following the announcement by the Secretary of the income poverty guidelines for each 12-month period, each State educational agency shall prescribe the income guidelines, by family size, to be used by schools in the State during such 12-month period in making determinations of those eligible for a free lunch as prescribed in this section. The income guidelines for free lunches to be prescribed by each State educational agency shall not be less than the applicable family-size income levels in the income poverty guidelines prescribed by the Secretary and shall not be more than 25 per centum above such family-size income levels. Each fiscal year, each State educational agency shall also prescribe income guidelines, by family size, to be used by schools in the State during the 12-month period from July through June in making determinations of those children eligible for a lunch at a reduced price, not to exceed 20 cents. Such income guidelines for reduced-price lunches shall be prescribed at 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary. Any child who is a member of a household, if that household has an annual income which falls between (A) the applicable family size income level of the income guidelines for free lunches prescribed by the State educational agency and (B) 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary, shall be served a reduced price lunch at a price not to exceed 20 cents. Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year, and shall make determinations with respect to the annual incomes of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household: *Provided,* That such local school authorities may for cause seek verification of the data in such application. No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means. For purposes of this subsection, "Consumer Price Index" means the Consumer Price Index published each month by the Bureau of Labor Statistics of the Department of Labor.

Sec. 6(c) of P. L. 94-105

(2) Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local school authorities shall publicly announce that such children are eligible for a free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence solely on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

Sec. 6(c) of P. L. 94-105

(c) School lunch programs under this Act shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or commodities donated by the Secretary. Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under this Act as well as to other schools

carrying out nonprofit school lunch programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 32, under section 416 of the Agricultural Act of 1949, as amended, and under section 709 of the Food and Agriculture Act of 1965, as amended, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence. None of the requirements of this section in respect to the amount for "reduced cost" meals and to eligibility for meals without cost shall apply to schools (as defined in section 12(d)(6) of this Act which are private and nonprofit as defined in the last sentence of section 12(d)(6) of this Act) which participate in the school lunch program under this Act until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 10 of this Act the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements.

Sec. 6(e) of P. L. 91-248

Sec. 6 (e) of P. L. 94-105

DISBURSEMENT TO SCHOOLS BY THE SECRETARY

SEC. 10. If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the schools in the State, or is not permitted by law to match Federal funds made available for use by such schools, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to schools within the State by the State educational agency, including the requirement that any such payment or payments shall be matched, in the proportion specified in section 7 for such State, by funds from sources within the State expended by such schools within the State participating in the school lunch program under this Act. Such funds shall not be considered a part of the funds constituting the matching funds under the terms of section 7.

Sec. 7 of P. L. 94-105

SPECIAL ASSISTANCE

SEC. 11. (a) Except as provided in section 10 of this Act, in each fiscal year each State educational agency shall receive special-assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served free to children eligible for such lunches in schools within that State during such fiscal year by the special-assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced-price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced-price lunches prescribed by the Secretary for such fiscal year. For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced-price lunches which shall be 10 cents less than the special-assistance factor for free lunches. The Secretary shall prescribe on July 1 of each fiscal year, and on January 1, of each fiscal year, semiannual adjustments in the national average rates for lunches served under section 4 of the National School Lunch Act and the special-assistance factor for the lunches served under section 11 of the National School Lunch Act, and the national average rates for breakfasts served under section 4 of the Child Nutrition Act of 1966, as amended, that shall reflect changes in the cost of operating a school lunch and breakfast program under these Acts, as indicated by the change in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided,* That the initial such adjustment shall reflect the change in the series for food away from home during the period September 1973, through November 1973: *Provided further,* That each subsequent adjustment shall reflect the changes in the series for food away from home for the most recent six-month period for which

Sec. 3 (a of P. L. 93-150

Sec. 3 (a of P. L. 93-150

such data are available: *Provided further*, That such adjustments shall be computed to the nearest one-fourth cent. Notwithstanding the foregoing two sentences, (1) for the fiscal year beginning July 1, 1973, no special assistance factor under this section 11 shall, for any State, be less than the average reimbursement paid for each free lunch (in the case of the special assistance factor for free lunches), or for each reduced price lunch (in the case of the special assistance factor for reduced price lunches), in such State under this section in the fiscal year beginning July 1, 1972; and (2) adjustments required by the sentence immediately preceding this sentence shall be based on the special assistance factors for the fiscal year beginning July 1, 1973, as determined without regard to any increase required by the application of this sentence.

(b) Except as provided in section 10 of the Child Nutrition Act of 1966, the special-assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in financing the cost of providing free and reduced-price lunches served to children pursuant to subsection 9(b) of this Act. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

(c) Special assistance payments to any State under this section shall be made as provided in the last sentence of section 7 of this Act.

(d) In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this Act, including those applicable to funds apportioned or paid pursuant to section 4 or 5 but excluding the provisions of section 7 relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section.

Secs. 8 (a) & (b) of P. L. 94-105

(e)(1) Each year by not later than a date specified by the Secretary each State educational agency shall submit to the Secretary, for approval by him as a prerequisite to receipt of Federal funds or any commodities donated by the Secretary for use in programs under this Act and the Child Nutrition Act of 1966, a State plan of child nutrition operations for the following school year, which shall include, as a minimum, a description of the manner in which the State educational agency proposes (A) to use the funds provided under this Act and funds from sources within the State to furnish a free or reduced-price lunch to every needy child in accordance with the provisions of section 9; (B) to extend the school lunch program under this Act to every school within the State, and (C) to use the funds provided under section 13 of this Act and section 4 of the Child Nutrition Act of 1966 and funds from sources within the State to the maximum extent practicable to reach needy children.

(2) Each school participating in the school lunch program under this Act shall report each month to its State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced-price lunches during the immediately preceding month. Each participating school shall provide an estimate, as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced-price lunch.

(3) The State educational agency of each State shall report to the Secretary each month the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month. Each State educational agency shall provide an estimate as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced-price lunch.

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12.(a) States, State educational agencies, and schools participating in the school lunch program under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this Act are being complied with. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) The Secretary shall incorporate, in his agreements with the State educational agencies, the express requirements under this Act with respect to the operation of the school lunch program under this Act insofar as they may be applicable and such other provisions as in his opinion are reasonably necessary or appropriate to effectuate the purposes of this Act.

Sec. 5 of P. L. 87-823

(c) In carrying out the provisions of this Act, neither the Secretary nor the State shall impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school.

(d) For the purposes of this Act—

(1) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

Sec. 9(b) of P. L. 94-105

(2) "State educational agency" means, as the State legislature may determine, (A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education.

(3) "Nonfood assistance" means equipment used by schools in storing, preparing, or serving food for school children.

(4) "Participation rate" for a State means a number equal to the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 9, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this Act in the State, as determined by the Secretary.

Sec. 9(a) of P. L. 94-105

Sec. 1 (b) of P. L. 91-248

(5) "Assistance need rate" (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an average annual per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph, the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce. * * *

(6) "School" means (A) any public or nonprofit private school of high school grade or under, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term 'nonprofit', when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.

Secs. 9 (a) & (c) of P. L. 94-105

(e) The value of assistance to children under this Act shall not be considered to be income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs.

Sec. 9(d) of P. L. 94-105

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13.(a)(1) There is hereby authorized to be appropriated such sums as are necessary for the fiscal year ending June 30, 1976, for the period July 1, 1976 through September 30, 1976, and for the fiscal year ending September 30, 1977, to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions. For purposes of this section, the term "service institutions" means nonresidential public or private, nonprofit institutions and residential public or private nonprofit summer camps that develop special summer programs providing food service similar to that available to children under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 during the school year. To the maximum extent feasible, consistent with the purposes of this section, special summer programs shall utilize the existing food service

Sec. 13 of P. L. 94-105

facilities of public and nonprofit private schools. Any eligible service institution shall receive the summer food program upon its request.

(2) Service institutions eligible to participate under the program authorized under this section shall be limited to those which conduct a regularly scheduled program for children from areas in which poor economic conditions exist, for any period during the months of May through September, at site locations where organized recreation activities or food services are provided for children in attendance.

(3) For the purposes of this section, "poor economic conditions" shall mean an area in which at least 33-1/3 per centum of the children are eligible for free or reduced price school meals under the National School Lunch Act and Child Nutrition Act as shown by information provided from model city target areas, departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending schools located in the area of summer food sites, or from other applicable sources. 'State' shall mean any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(b) Disbursement to service institutions shall equal the full cost of food service operations, except that such financial assistance to any such institution shall not exceed (1) 75.5 cents for all costs excepting administrative costs for each lunch and supper served, (2) 6 cents for administrative costs for each lunch and supper served, (3) 42 cents for all costs except administrative costs for each breakfast served, (4) 3 cents for administrative costs for each breakfast served, (5) 19.75 cents for all costs except administrative costs for each meal supplement served, and (6) 1.5 cents for administrative costs for each meal supplement served: *Provided*, That the above amounts shall be adjusted each March 1 to the nearest one-fourth cent in accordance with changes for the year ending January 31 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall reflect the change in the series for food away from home during the period January 31, 1975, to January 31, 1976. The cost of food service operations shall include the cost of obtaining, preparing, and serving food and related administrative costs. No service institution shall be prohibited from serving breakfasts, suppers, and meal supplements as well as lunches unless the service period of different meals coincides or overlaps.

(c) Disbursements shall be made to service institutions only for meals served during the months of May through September, except that the foregoing provision shall not apply to institutions which develop food service programs for children on school vacation at any time under a continuous school calendar or prevent such institutions, if otherwise eligible, from participating in the program authorized by this section.

(d) No later than June 1, July 1, and August 1 of each year, the Secretary shall forward to each State an advance payment for meals to be served in that month pursuant to subsection (b), which amount shall be no less than (1) the total payment made to such State for meals served pursuant to subsection (b) for the same calendar month of the preceding calendar year or (2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served pursuant to subsection (b) in that month, whichever is the greater. The Secretary shall forward any remaining payment due pursuant to subsection (b) no later than 60 days following receipt of valid claims. Any funds advanced to a State for which valid claims have not been established within 180 days shall be deducted from the next appropriate monthly advance payment unless the claimant requests a hearing with the Secretary prior to the 180th day. Institutions operating programs during nonsummer vacations during a continuous school year calendar shall receive advance payments not later than the first day of each month involved.

Sec. 13 of P. L. 94-105

(e) Service institutions to which funds are disbursed under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost to children attending service institutions approved for operation under this section.

(f) The Secretary shall publish proposed

regulations relating to the implementation of the summer food program by January 1 of each fiscal year, and shall publish final regulations, guidelines, applications, and handbooks by March 1 of each fiscal year. In order to improve program planning, the Secretary is authorized to provide that service institutions receive as startup costs not to exceed 10 per centum of the Federal funds provided such service institutions for meals served pursuant to this section during the preceding summer. Any such startup costs shall be subtracted from payments subsequently made to service institutions for meals served pursuant to subsection (b) of this section.

(g) Each participating service institution shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the institution area, or foods donated by the Secretary. Irrespective of the amount of funds appropriated under this section, food available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), shall be donated by the Secretary to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs.

(h) If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any service institution in the State, the Secretary shall disburse the funds directly to service institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(i) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(j) There is hereby authorized to be appropriated such sums as may be necessary for the Secretary's administrative expenses under this section.

(k) The Secretary shall pay to each State for administrative costs incurred pursuant to this section an amount equal to 2 per centum of the funds distributed to that State pursuant to subsection (b): *Provided*, That no State shall receive less than $10,000 each fiscal year for its administrative costs unless the funds distributed to that State pursuant to subsection (b) total less than $50,000 for such fiscal year.

(l) Nothing in this section shall be construed as precluding a service institution from contracting on a competitive basis for the furnishing of meals or administration of the program, or both.

Sec. 13 of P. L. 94-105

(m) States, State educational agencies, and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of 5 years, as the Secretary determines is necessary.

TEMPORARY EMERGENCY ASSISTANCE TO PROVIDE NUTRITIOUS MEALS TO NEEDY CHILDREN IN SCHOOLS

Sec. 1 of P. L. 91-207

SEC. 13A * * * * *

COMMODITY DISTRIBUTION PROGRAM

SEC. 14(a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, 1977 shall—

(1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section, for donation to maintain the annually programmed level of assistance for programs carried on under this Act, the Child Nutrition Act of 1966, and title VII of the Older Americans Act of 1965; and

Sec. 2 of P. L. 93-326 and Sec. 10 of P. L. 94-105

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily

available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(b) Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.

Sec. 2 of P. L. 93-326

NATIONAL ADVISORY COUNCIL

SEC. 15. There is hereby established a council to be known as the National Advisory Council on Child Nutrition (hereinafter in this section referred to as the 'Council') which shall be composed of fifteen members appointed by the Secretary. One member shall be a school administrator, one member shall be a person engaged in child welfare work, one member shall be a person engaged in vocational education work, one member shall be a nutrition expert, one member shall be a school food service management expert, one member shall be a State superintendent of schools (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area, one member shall be a State school lunch director (or the equivalent thereof), one member shall be a person serving on a school board, one member shall be a classroom teacher, and four members shall be officers or employees of the Department of Agriculture specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to child food programs.

Sec. 9 of P.L. 91-248 and, Secs. 8(1), 8(2) and 8(3) of P.L. 93-150

(b) The eleven members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of three years, except that the nine members first appointed to the Council shall be appointed as follows: Three members shall be appointed for terms of three years, three members shall be appointed for terms of two years, and three members shall be appointed for terms of one year. Thereafter all appointments shall be for a term of three years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

(c) The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(d) The Council shall meet at the call of the Chairman but shall meet at least once a year.

(e) Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(f) It shall be the function of the Council to make a continuing study of the operation of programs carried out under the National School Lunch Act, the Child Nutrition Act of 1966, and any related Act under which meals are provided for children, with a view to determining how such programs may be improved. The Council shall submit to the President and to the Congress annually a written report of the results of its study together with such recommendations for administrative and legislative changes as it deems appropriate.

(g) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this Act.

(h) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council.

ELECTION TO RECEIVE CASH PAYMENTS

SEC. 16(a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this Act and the Child Nutrition Act of 1966, elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by section 6(e) of this Act.

Sec. 12 of P. L. 94-105

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs.

CHILD CARE FOOD PROGRAM

SEC. 17(a)(1) There is hereby authorized to be appropriated such sums as are necessary for the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means to initiate, maintain, or expand nonprofit food service programs for children in institutions providing child care.

(2) For purposes of this section, the term 'institution' means any public or private nonprofit organization where children are not maintained in permanent residence including, but not limited to, day care centers, settlement houses, recreation centers, family day care programs, Head Start centers, Homestart programs, and institutions providing day care services for handicapped children. No institution shall be eligible to participate in this program unless it has either local, State, or Federal licensing or approval as a child care institution, or can satisfy the Secretary that its standards are no less comprehensive than the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968. An institution may be approved for funding under this section only if, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1954, or is currently operating a federally funded program requiring nonprofit status. For purposes of this section, the term 'State' means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. Any eligible institution shall receive the child care food program upon its request.

Sec. 16 of P. L. 94-105

(b) For each fiscal year beginning with the fiscal year ending June 30, 1976, the Secretary shall make child care food payments no less frequently than on a monthly basis to each State educational agency in an amount no less than the sum of the products obtained by multiplying (A) the number of breakfasts served in child care food programs within that State by the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966, (B) the number of breakfasts served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for free school meals by the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966, (C) the number of breakfasts served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for reduced price school meals by the national average payment rate for reduced price school breakfasts under section 4 of the Child Nutrition Act of 1966, (D) the number of lunches and suppers served in child care food programs within that State by the national average payment rate for lunches under Section 4 of the National School Lunch Act, (E) the number of lunches and suppers served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for free school meals by the national average payment rate for free school lunches under section 11 of the National School Lunch Act, (F) the number of lunches and suppers served in child care food programs in that State to children whose families meet the eligibility criteria for reduced price school meals by the national average payment factor for reduced price lunches under section 11 of the National School Lunch Act, (G) the number of snacks served in child care food programs in that State by 5 cents, (H) the number of snacks served in child care food programs in that State to children from families whose incomes meet the eligibility criteria for free school meals by 15 cents, and (I) the number of snacks served in child care food programs in that State to children from families whose incomes meet the eligibility criteria for reduced price school meals by 10 cents. The rates established pursuant to clauses (G), (H), and (I) shall be adjusted semiannually to the nearest one-fourth cent by the Secretary to reflect the changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall become effective January 1, 1976, and shall reflect changes in the series for food away from home during the period June through November 1975. Reimbursement for meals provided under this section shall not be depen-

Sec. 16 of P. L. 94-105

dent upon the collection of moneys from participating children.

(c) Meals served by institutions participating in the program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children. No physical segregation or other discrimination against any child shall be made because of his inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or other means. No institution shall be prohibited from serving a breakfast, lunch, dinner, and snack to each eligible child each day.

(d) Funds paid to any State under this section shall be disbursed by the State educational agency to institutions approved for participation on a nondiscriminatory basis to reimburse such institutions for their costs in connection with food service operations, including labor and administrative expenses. All valid claims from such institutions shall be paid within 30 days.

(e) Irrespective of the amount of funds appropriated under this section, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), shall be donated by the Secretary of Agriculture to institutions participating in the child care food program in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs. The amount of such commodities (or, upon the application of a State educational agency, cash in lieu of commodities in such amounts as may be provided in appropriations Acts) donated to each State for each fiscal year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions during that fiscal year by the rate for commodities and cash in lieu thereof established for that fiscal year in accordance with the provisions of section 6(e) of the National School Lunch Act.

(f) If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any institution in the State, the Secretary shall disburse the funds so withheld directly to institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(g) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(h) There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary for the Secretary's administrative expenses under this section.

(i) States, State educational agencies, and institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of 5 years, as the Secretary determines is necessary.

(j)(1) Of the sums appropriated for any fiscal year pursuant to the authorization contained in this section, $3,000,000 shall be available to the Secretary for the purposes of providing, during each such fiscal year, nonfood assistance for the child care food program. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of $3,000,000: *Provided,* That such an apportionment shall be made according to the ratio among the States of the number of children below age 6 who are members of households which have an annual income not above 125 per centum of the applicable family-size income level set forth in the income poverty guideline prescribed by the Secretary under section 9(b) of this Act.

Sec. 16 of P. L. 94-105

(2) If any State cannot utilize all of the funds apportioned to it under the provisions of this section, the Secretary shall make further apportionments to the remaining States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this section shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds

used under this section to assist institutions determined by the State to be especially needy.

(k) The regulations issued by the Secretary to carry out this section shall be issued and become effective not later than 90 days after the date of enactment of the National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975. During the period prior to the effective date of the regulations, the Secretary is authorized to conduct a food service program in the same manner and under the same conditions and limitations as the special food service program for children was conducted under section 13 of the National School Lunch Act during the fiscal year ending June 30, 1975. Notwithstanding the foregoing, the child care food payment rates provided in subsection (b) of this section and the provisions of subsection (e) of this section shall become effective on the date of enactment of the National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975.

Sec. 16 of P. L. 94-105

NUTRITION PROGRAM STAFF STUDY

SEC. 18. The Secretary is authorized to carry out a study to determine how States are utilizing Federal funds provided to them for the administration of the child nutrition programs authorized by this Act and the Child Nutrition Act of 1966, and to determine the level of funds needed by the States for administrative purposes. The study shall report on the current size and structure of State staffs, job descriptions and classifications, training provided to such staff, representation of minorities on staffs, and the allocation of staff time, training time, and Federal administrative dollars spent among each of the various child nutrition programs. The study shall assess State needs for additional staff positions, training, and funds, for each of the above areas, including additional State needs to implement adequately the provisions of this Act and the Child Nutrition Act of 1966. The study shall also determine State staffing needs and training program support required to conduct effective outreach for the purpose of reaching the maximum number of eligible children in the summer food service program and the child care food program. As part of this study, the Secretary shall also examine the degree and cause of plate waste in the school lunch program. The Secretary shall examine possible relationships between plate waste and (1) lack of adequate menu development, (2) the service of competitive foods, and (3) the nature of the type A lunch pattern. The Secretary shall review the study design with the appropriate congressional committees prior to its implementation, and shall report his findings together with any recommendations he may have with respect to additional legislation, to the Congress no later than March 1, 1976.

Sec 19 P. L. 94-105

APPROPRIATIONS FOR THE TRUST TERRITORY OF THE PACIFIC ISLANDS

SEC. 19. There is hereby authorized to be appropriated (a) for each of the fiscal years beginning July 1, 1975, and October 1, 1976, the sum of $500,000 and (b) for the period July 1, 1976, through September 30, 1976, the sum of $125,000, to enable the Secretary to assist the Trust Territory of the Pacific Islands to carry out various developmental and experimental projects relating to programs authorized under this Act and the Child Nutrition Act of 1966 to (1) establish or improve the organizational, administrative, and operational structures and systems at the State and local school levels; (2) develop and conduct necessary training programs for school food personnel; (3) conduct a thorough study of the children's food and dietary habits upon which special meal and nutritional requirements can be developed; and (4) establish and maintain viable school food services which are fully responsive to the needs of the children, and which are consistent with the range of child nutrition programs available to the other States, to the maximum extent possible.

Sec. 20 of P. L. 94-105

STUDY OF COST ACCOUNTING REQUIREMENTS

SEC. 21. (a) The Secretary shall not delay or withhold, or cause any State to delay or withhold, payments for reimbursement of per-meal costs with respect to school food service programs authorized pursuant to the National School Lunch Act and Child Nutrition Act of 1966 on the basis of noncompliance with full cost accounting procedures unless and until the requirements of subsection (b) of this section are met.

Sec. 21 of P. L. 94-105

Sec. 21 of P. L. 94-105

(b) The Secretary shall study the additional personnel and training needs of States, local school districts, and schools resulting from the imposition of a requirement to implement full cost accounting procedures under the National School Lunch Act and Child Nutrition Act of 1966, and, on the basis of the results of such study, shall within one year after the date of enactment of this Act, submit a report and make such legislative recommendations as he deems necessary to the appropriate committees of the Congress.